

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ENTRETELAS AMERICANS S.A.,

Plaintiff,

-against-

19-cv-3658 (LAK)

RAFAEL IGNACIO SOLER,

Defendant.
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ORDER

LEWIS A. KAPLAN, *District Judge*.

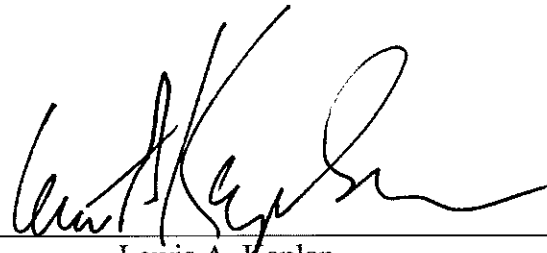
This matter is before the Court on defendant's motion to dismiss the complaint on the grounds that (1) the RICO claims are legally insufficient, (2) the non-federal claims, given the insufficient allegations of the complaint as to the amount in controversy on those claims, are beyond the Court's jurisdiction, and (3) the Court should not exercise supplemental jurisdiction over the later. In a report and recommendation filed February 3, 2021 (the "R&R"), Magistrate Judge Robert W. Lehrburger recommended that I grant the motion. The plaintiff object to the R&R.

I agree that the complaint in its present form does not allege a legally sufficient RICO claim and that it does not sufficiently allege that the matter in controversy on the non-RICO claims exceeds the requisite threshold. The motion to dismiss the complaint (Dkt 15) therefore is granted albeit with leave to file an amended complaint on or before May 15, 2021.

This order should not be taken as endorsing the entirety of the R&R. The Court cannot at this stage exclude the possibility that the plaintiff can state a legally sufficient RICO claim or that the exercise of supplemental jurisdiction over the non-RICO claims could be appropriate.

SO ORDERED.

Dated: April 15, 2021



Lewis A. Kaplan
United States District Judge

